

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-599-C - ORDER NO. 2002-45

JANUARY 24, 2002

IN RE: Application of Long Distance Billing)	ORDER GRANTING
Services, Inc. for a Certificate of Public)	CERTIFICATE FOR
Convenience and Necessity to Operate as a)	INTEREXCHANGE
Reseller of Interexchange)	AUTHORITY
Telecommunications Services.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Long Distance Billing Services, Inc. ("Long Distance Billing" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate, interexchange telecommunications services within the State of South Carolina on a resale basis. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2000), S.C. Code Ann. § 58-9-520 (Supp. 2000) and the rules and regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Long Distance Billing to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Long Distance Billing's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Long Distance Billing complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on August 22, 2001, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Scott A. Elliott, Esquire represented Long Distance Billing. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Darry Adams, Marketing Director, appeared and testified on behalf of the Company. Long Distance Billing, a wholly-owned subsidiary of ezTel, LLC, is a Nevada corporation that has received authorization to transact business within the State of South Carolina. Mr. Adams also serves as Marketing Director for ezTel, LLC. According to the testimony, Long Distance Billing is a relatively new company; it has been in business about a year. Company headquarters are in Brookneal, Virginia. The Company seeks authority to operate as a reseller of intraLATA and interLATA intrastate telecommunications services to the public on a statewide basis. More specifically, the Company seeks authority to offer on a resale basis within South Carolina interLATA and, to the extent authorized by the Commission, intraLATA direct-dialed services including (1+) service, flat rate service, 800 inbound service, travel cards and prepaid calling cards. Long Distance Billing will provide long distance and internet services. The Company has no plans at this time to construct any telecommunications transmission facilities of its own and seeks no construction authority; the Company intends to operate exclusively as a reseller, to engage in switchless resale. Long Distance Billing will arrange for the traffic of underlying subscribers to be routed directly over the networks of the Company's network providers. Mr. Adams testified that Maxtel USA, Inc., (Maxtel USA) also a

wholly owned subsidiary of ezTel Network Services, Inc., was scheduled to appear at a hearing at the Commission on the same date to apply for a Certificate of Public Convenience and Necessity to provide intrastate, interexchange telecommunications services within the State of South Carolina. He explained that Maxtel has a different business model which intends to target services to associations and affinity groups in South Carolina. He said Long Distance Billing will provide long distance service only, whereas Maxtel USA, Inc. will provide long distance and internet services. He additionally said that the companies will not likely compete because they target different markets.

Adams presented testimony regarding the Company's managerial, technical, and financial resources to provide telecommunications services in South Carolina. According to Adams, Long Distance Billing has sufficient technical, financial, and managerial resources and ability to provide telecommunications services in South Carolina. As a switchless reseller, Long Distance Billing intends to utilize Qwest, MCI WorldCom and Frontier/Global Crossing as its underlying carriers. Mr. Adams said the Company will sell wholesale and retail long distance services in South Carolina, to include calling cards, 800 service and service to internet service providers. He testified that Long Distance Billing has tailored its services primarily for internet service providers (ISPs) who have an existing customer base. He said Long Distance Billing allows these ISPs to provide some other products to their existing customer base, the opportunity to add long distance services and private labeling of those services, if necessary. He stated that Long Distance Billing's provisioning rate is approximately 92%, about 20% above the industry

average. In recognition of this excellent provisioning record, he testified that Long Distance Billing was expected to begin provisioning for some underlying carriers. T. Patric Boggs, President and Chief Executive Officer, will serve as Long Distance Billing's regulatory contact person. He can be reached at (804) 376-1046.

Regarding the Company's financial resources to provide telecommunications services, Adams testified Long Distance Billing's Board of Directors and original investors are committed to infuse any funds or capital to insure the business is successful. According to the testimony, the Company does not currently have any debt and the founders of the Company are providing adequate cash. He further stated that the parent company also has no debt. Mr. Adams stated that Allen Hill, Vice President, Finance, will serve as the Company's financial contact person. Mr. Hill can be reached at (662) 887-9990.

T. Patric Boggs is the Company's President and Chief Executive Officer. Mr. Boggs was employed with other telecommunications companies prior to joining Long Distance Billing. Prior to joining ezTel, Mr. Boggs was the Senior Vice President, National Sales for erbia Network, Inc., a nationwide provider of telecommunications services. Additionally, Mr. Boggs was President and Chief Executive Officer of erbia Communications, Inc. The record also reveals Boggs co-founded and served as President of Carey Communications and he established Advance Communication Techniques. James B. Palmer is the Company's Chairman of the Board, Danny Dunnaway is the Vice Chairman of the Board of Directors, and Lamar Adams is the Company's Secretary of the Board. Mr. Palmer co-founded ezTel, Inc. in 1999. He holds a bachelor of business

administration degree from the University of Mississippi. Mr. Dunnaway graduated from the University of Southern Mississippi with a bachelor of science degree in business administration. He received his Juris Doctor degree from the University of Mississippi Law School. Mr. Adams holds a degree from Delta State University.

Long Distance Billing is currently authorized to provide telecommunications services in forty-two states. Mr. Adams stated that the Company is also currently providing services in those forty-two states. The testimony reveals the Company is operating in good standing in all the states where it has received authority to provide telecommunications services. Additionally, the Company, as of the date of the hearing, had not received revenues for the completion of intrastate calls in South Carolina nor had the Company marketed its telecommunications services in South Carolina.

Long Distance Billing's customer service department handles all customer service requests through the Company's toll free customer service telephone (877) 625-2495. Mandy Boggs is the Vice President of Operations at the Company's Call Center in Brookneal, Virginia. The customer service center's hours of operation are twenty-four hours a day, six days a week. During these hours, an employee is available to answer customer inquiries. On the seventh day of the week, the Company's recording machine takes messages of customer inquiries. Those calls are responded to by the first shift of customer service representatives on Monday mornings. Long Distance Billing uses written letters of authorization to verify a customer's intent to switch carriers.

The Company's name and telephone number will appear on bills that are sent to customers. As to its prepaid calling cards, Long Distance Billing's name and toll-free

telephone number will appear on the cards. Additionally, Mr. Adams stated that independent agents will market the Company's services throughout the country. Long Distance Billing will provide support activities for those agents and will be responsible for screening and hiring them. Mr. Adams said training manuals are routinely issued to those agents. The Company will also utilize direct sales to market its services. He testified that the Company will add its email address and telephone number to the bottom of each page of the final tariff and will also provide a copy of the Company's Bill Form at that time.

Long Distance Billing also seeks a waiver of 26 S.C. Code Ann. Regs. 103-610, which requires the Company to keep its books and records within the State of South Carolina. Long Distance Billing seeks to keep its books and records at its principal place of business in Brookneal, Virginia.

Andreas J. Corley, Auditor, presented testimony on behalf of the Commission Staff. Mr. Corley testified that he reviewed unaudited financial statements dated June 30, 2000 that were submitted with the Company's Application. He said the only accounts shown on the balance sheet were for the checking/savings account and the equity account. He said cash made up 100% of the total asset balance while common stock made up 100% of the total liabilities and equity section of the balance sheet. He further testified that no statement of income and expenses was provided as a part of the filing. Mr. Corley opined that the statements were reflective of a company that is in the start-up mode. He said that based on the information provided with the Application, the Company appeared to be financially strong and in a position to begin operations in South Carolina. In a Late

Filed Exhibit, the Audit Staff reviewed the unaudited balance sheet and income expense statement dated December 31, 2000, of ezTel, LLC, the parent of the Company. The income and expense statement showed a net loss on operations for the twelve months ended December 31, 2000. The balance sheet as of December 31, 2000, reflected that cash made up 11% of total assets. The current ratio at December 31, 2000, is a strong 1.73, which means that ezTel, LLC has sufficient current assets to meet its current liabilities. The balance sheet shows no long-term debt and total equity is positive. Additionally, Corley opined the financial statement that he reviewed of the parent company indicates that ezTel, LLC is able to provide financial support to Long Distance Billing if needed.

David Lacoste, who is employed as an Engineer with the Commission's Staff, also presented testimony regarding the Application and Tariff of Long Distance Billing. According to Lacoste, the terms and conditions contained within the proposed tariff are well stated in that they appear to be generally consistent with this Commission's rules and regulations governing telecommunications utilities and other certified interexchange carriers. Lacoste recommended that the Company amend its tariff concerning an apparent requirement that the customer give at least thirty days notice prior to canceling service. Additionally, Lacoste recommended that the Company define the various Programs associated with its prepaid calling card service offerings. Mr. Adams agreed to make the recommended changes to the Company's tariff as requested by Lacoste. The Company filed two Late Filed Exhibits whereby Long Distance Billing explained its business plans and amended Section 4.4 of its Tariff regarding prepaid calling cards.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Long Distance Billing is organized as a corporation under the laws of the State of Nevada and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Long Distance Billing is a provider of long distance services and wishes to provide long distance services in South Carolina.

3. Long Distance Billing has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Long Distance Billing to provide resold intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Long Distance Billing for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for

adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Long Distance Billing shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Long Distance Billing shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2000).

4. If it has not already done so by the date of issuance of this Order, Long Distance Billing shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, Long Distance Billing shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 103-622.1 with its final Tariff.

5. Long Distance Billing is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to Long Distance Billing's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Long Distance Billing shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Long Distance Billing changes underlying carriers, it shall notify the Commission in writing.

8. Long Distance Billing shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. Long Distance Billing shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, Long Distance Billing shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with

general management duties as well as emergencies which occur during non-office hours. Long Distance Billing shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, Long Distance Billing shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, Long Distance Billing shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. By its Application and testimony at the hearing, Long Distance Billing requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants Long Distance Billing's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in Brookneal, Virginia.

12. As a condition of offering debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit

worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this State and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

13. If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, or as approved by the Commission in a special promotion, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

The Company shall amend its tariff to incorporate language that resolves the Commission Staff's concerns with the proposed rate schedule as contained in Late Filed Hearing Exhibit #2. In addition, the Company shall include its name and toll-free customer service telephone number on the back of each of its prepaid calling cards.

14. Long Distance Billing is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

William Buckley

Chairman

ATTEST:

ATTEST:


Executive Director

Executive Director

(SEAL)